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MEMORANDUM

IN RELATION TO THE

SEIZURE OF VESSELS

BELONGING TO

J. & C. NOBLE

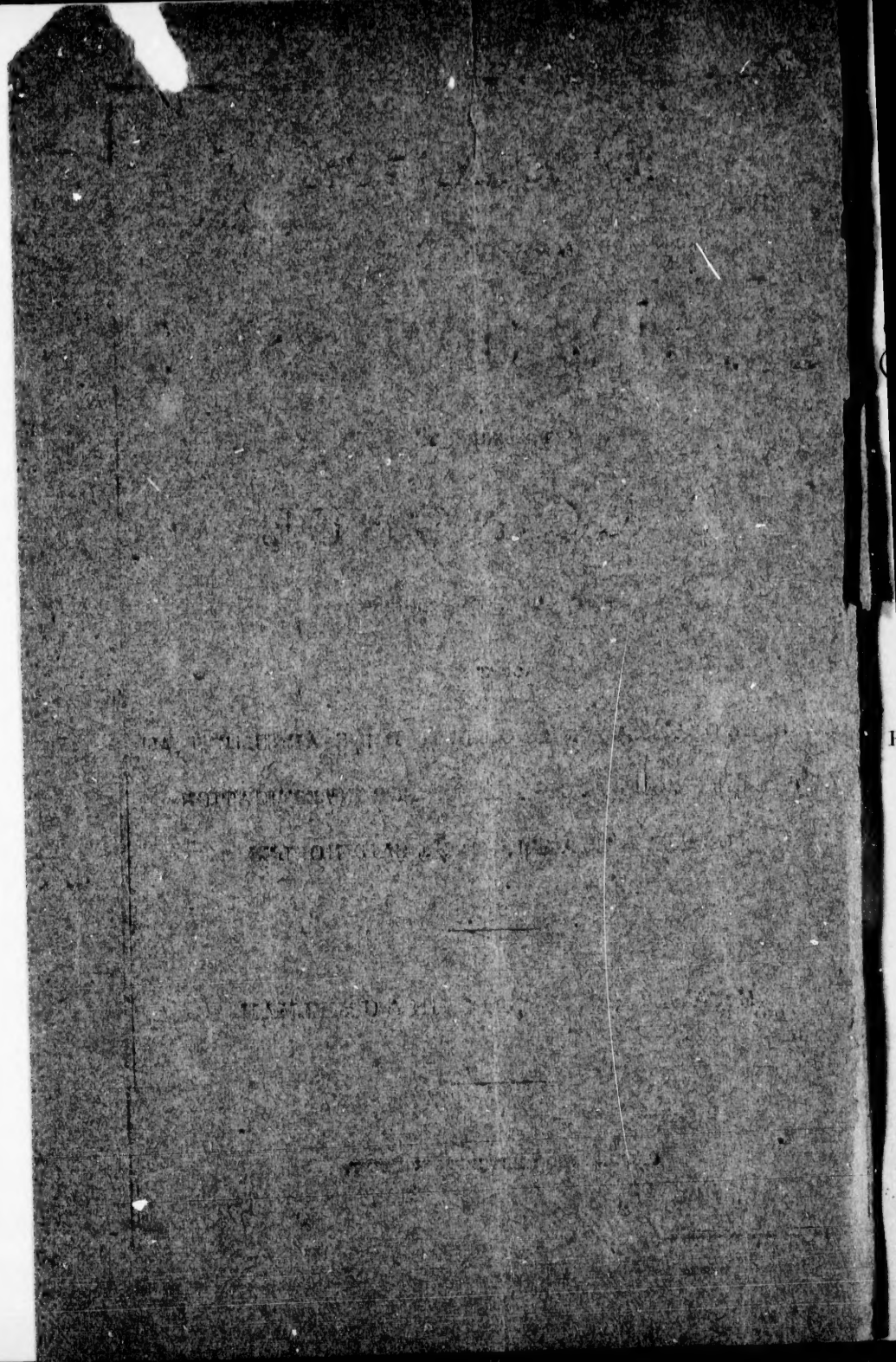
PREPARED IN CONSEQUENCE

OF THE

REFUSAL OF THE COMMISSIONER TO HEAR ARGUMENT AT
THE CLOSE OF THE COMMISSION FOR INVESTIGATION
OF CHARGES AGAINST THE SAID NOBLES.

McCARTHY, OSLER, HOSKIN & CREELMAN

COLLINGWOOD ENTERPRISE PRINT.



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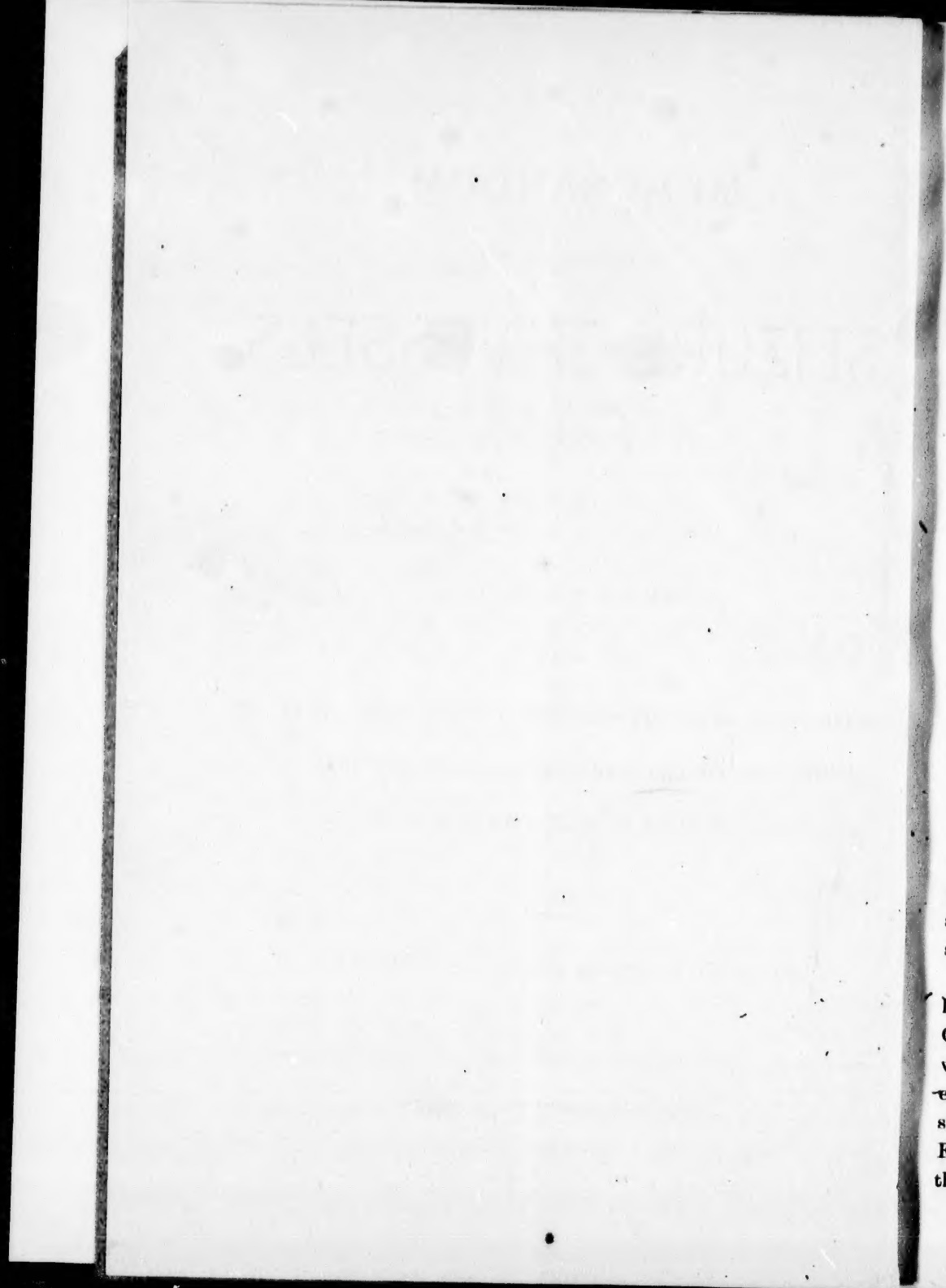
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RELATION TO THE SEIZURE OF VESSELS BELONGING TO J. & C. NOBLE, PREPARED IN CONSEQUENCE OF THE REFUSAL OF THE COMMISSIONER TO HEAR ARGUMENT AT THE CLOSE OF COMMISSION FOR INVESTIGATION OF CHARGES AGAINST THE SAID NOBLES.

On the 8th and 9th days of May, 1894, four steam tugs and a number of sail boats which belonged or were supposed to belong to J. & C. Noble, of Killarney, were seized by Fishery Overseer Elliott at Squaw Island and Byng Inlet on the Georgian Bay. This seizure was made under instructions from the Department of Marine and Fisheries to the F.O., in answer to a telegram from him advising the Department that the Nobles were then fishing without a license.

During the following month two charges were laid against them for fishing without a license, and they were brought before Police Magistrate Burden on or about June 24th, 1894, when one of the charges was withdrawn, and upon the other a fine of \$5.00 was imposed.

The tugs and boats seized, which were of a value of several thousand dollars were not returned, the said sail boats being sold by private sale without notice to the Nobles, and the tugs being advertised for sale by tender, which sale has been postponed from time to time.

The Nobles have not only lost the season of 1894 but their business has been ruined, their trade has been turned into the hands of a rival Company and it has become known over the whole territory through which their business extends that fishermen dealing with them cannot expect fair treatment at the hands of the F. O. The Nobles have stated upon oath that the loss inflicted upon them by the action of the F. O. amounts to no less than \$25,000. As soon as it became known that the seizure had been made, the Nobles represented to the Depart-

ment that they had been treated most unjustly and unfairly by the F. O., that they did not intend to do anything wrong, that they had sent out their tugs and boats to the fishing grounds with the full expectation that licenses would be received in due course, that other fishermen had done the same, and that their boats and tugs had not been seized, although it was known to the F. O. at the time of this seizure that the other tugs and boats fishing at the same time and place had not received licenses; and further that they had been led into a trap by the action of the F. O., who had concealed from them the fact that their licenses were not likely to be granted, expressly in order to induce them to send out their tugs and boats in good faith in order that he might have an opportunity of seizing them. These representations having been made to the Department, the Nobles were met with the answer that numerous complaints had been made against them to the Department in former years, that it was stated and believed to be the fact that they had been convicted of violations of the Fisheries Act and Regulations, and in short that their conduct in other years had been such as to justify their being treated as outlaws, and that they could expect no leniency whatever, even if it was true that they had in this instance been harshly treated by the F. O., and that their offence was a merely technical one.

The Nobles strongly asserted that the statements made to the Department against them were for the most part gross slanders, that it was untrue that they had, as charged, persistently violated the law and had incited others to do the same, and that if any such charges had been made, upon a public investigation they could satisfactorily disprove or explain them.

So many and so gross were the charges which had been made against the Nobles in letters and reports to the Department, by the F. O., and perhaps by others instigated by him and by their rivals in the fishing business, that the Department felt justified in making public by a letter over the signature of James Hardee, Esq., Acting Deputy Minister of Marine and Fisheries, addressed to the "Owen Sound Sun," a series of charges, stated in such strong language and in such general terms, that they could hardly have been justified had the Nobles been convicted a dozen times for various offences against the

"Fisheries Act and Regulations."

In the month of July, 1894, a Commission was ordered to issue for the investigation of the charges referred to, but in spite of enquiries by the Nobles as to the time and place of hearing, nothing further was heard by them until on September 22nd, 1894, a telegram was sent from Ottawa advising them that the "Commission for Investigation" would meet on September 29th at Killarney. There being no telegraph station at Killarney it was some days before this telegram reached the Nobles, when they immediately made every possible preparation to meet the charges that had been made against them although a large number of witnesses were necessarily unavailable, being at various places on Georgian Bay, engaged in fishing, and it was consequently not possible to obtain their evidence within the time limited.

The Commission having been read, although it was in terms stated to be a Commission for Investigation of the charges that had been made against the Nobles, the Commissioner ruled that the Nobles were upon their defence, and that in any case he was not there to investigate any such charges, but that the whole scope of the Commission was to enable the Nobles to produce evidence of such extenuating circumstances as they might desire to bring to the notice of the Department, with relation only to the seizure above referred to in the month of May, 1894.

It became apparent as the Commission proceeded that the Commissioner, had, before leaving Ottawa, determined upon this limitation of the scope of the Commission, because he had not brought with him any documents in the possession of the Department bearing an earlier date than April 30th, 1892.

Counsel for the Nobles asked to be allowed to peruse the Commission, in order to see the endorsement by the Minister of the order allowing the file of the Department to be taken away by the Commissioner, but this was peremptorily refused, the Commissioner stating that he would not allow the Commission to be seen, but would simply read it aloud, which he did, but did not read the endorsement.

The Nobles then proceeded, under protest, to give evidence under the ruling of the Commissioner, of the extenuating circumstances upon which they relied as shewing their offence to have been merely a tech-

nical one and proving that they had been deliberately led into a trap by the F. O., and it is not too much to say they wholly succeeded in doing so.

Incidentally, it also appeared that many of the charges which had been made against them, and those the most serious ones, were absolutely without foundation, more particularly that as to their having been convicted upon previous occasions, and particularly in the year 1892 of having fished with seines on Bounty Island. Other statements contained in Mr. Hardee's letter, and which were doubtless based upon letters received by the Department, were also shewn to be untrue, and in short the falsity of the charges against the Nobles in general was shewn when the F. O. himself, admittedly hostile to them, swore that if it had not been for a certain conviction for the sale of fish illegally caught in 1893, he would have recommended in the spring of this year that the licenses in question should be granted to them. In view of this statement on oath, of an unfriendly witness, it can hardly be said that apart from the particular conviction referred to, and the circumstances surrounding the seizure in question, the record of the Nobles can be such as to justify the infliction upon them of a fine of thousands of dollars, worth of vessels and plant, in addition to the consequential damages to their business, and the humiliation and injury to their reputation necessarily following from the violent attack contained in Mr. Hardee's letter, which, in view of his official position, carried with all the weight attaching to an act of the Dominion Government.

In view of the fact that the infliction of this loss upon the Nobles has been attempted to be justified by their alleged past record as violators of the law, it may be well to say something upon that point before stating the circumstances in connection with the seizure in question, notwithstanding the fact that by the ruling referred to, the past record of the Nobles has been excluded from the scope of the Commission.

First, as to the alleged conviction in the year 1893, which the F. O. stated upon oath, to have been his sole ground for refusing to recommend the Nobles' application for licenses. It appears that during that year a charge was laid against the Nobles before the F. O., who has the

powers of a Justice of the Peace under the Act, for buying a small quantity of pickerel which it was alleged they knew to have been illegally caught. The summons was made returnable at Little Current on Manitoulin Island. On the return, Messrs. Noble appeared to answer to it before the Fishery Officer, Mr. Dawes, J. P., and Mr. Tinkiss, J. P. Mr. Elliott appearing as prosecutor, objection was taken as to his sitting upon the bench, and he thereupon undertook to adjourn the matter for a week, at the end of which time he again appeared with Mr. George Burden, Police Magistrate, at the Sault. Mr. Burden declined to allow the other Magistrates to sit with him on the bench, whereupon he was reminded that Manitoulin Island was not within his jurisdiction, and the other magistrates then proceeded to hear the case. Mr. Elliott refusing to proceed further with it before them, the Magistrates called upon him to do so, and dismissed the case, and a formal record of the discharge was handed to the Nobles. A short time after this the Police Magistrate came to Killarney, and issued a summons in respect of the same charge, returnable in two or three hours before himself. Messrs. Noble, when served with the summons, produced the record of their discharge, and declined to appear before Burden, who in their absence undertook to inflict upon them a fine amounting altogether to \$270.00. The Nobles having refused to pay this fine, the papers were sent to the Department, when it was as a matter of course not enforced.

Messrs. Noble stated on oath before the Commissioner that in the course of thirty years, during which time they had either by themselves or through their employees actively engaged in the fishery business, they had never been convicted of an offence until the occasion of the seizure in question, in the Spring of this year, with the exception of the alleged conviction, the circumstances of which are above stated and in respect of which they had not paid one dollar for either fine or costs.

The F. O. was compelled to state that he had never known of a single conviction against them and that he had never even heard of one, and in short, as above stated, swore more than once, during his examination, that his sole reason for refusing to recommend them for license was the said alleged conviction.

The F. O. appeared before the Commissioner, was present when the Nobles gave evidence, but did not put a single question to them regarding their alleged violations of the law, although the Commissioner openly stated in his presence that he was there for the purpose of acting as counsel against the Nobles. More than that, the Nobles demanded, in the presence of the Commissioner, that charges should be made against them, and publicly challenged the F. O. to go into the witness box, and state anything he knew against them, but he positively refused to do so, and it is submitted that nothing can shew more clearly that it was out of his power to establish the charges contained in his reports to the Department, than the fact that he was compelled to state that but for the one charge referred to, their conduct was such that he would have recommended their application for licenses.

How would it be possible to justify the total ruin of the business of a firm of merchants, the infliction upon them of a loss amounting to tens of thousands of dollars, by reason of a paltry conviction for the sale of a few illegally caught fish: and it seems simply monstrous that such action should be taken and attempted to be justified by a conviction which could not be enforced: and, if in addition, it is shewn by the evidence taken upon the Commission, that the offence which was sought to be made the occasion of the infliction of such a punishment was not only a merely technical one, but was brought about by means of a trap deliberately laid by the Government Officer, in order to induce the unfortunate men to commit a breach of the Regulations upon which he relies, surely every possible means should be taken to compensate them for the loss they have suffered.

Not only does the evidence taken before the Commissioner prove that the F. O. deliberately led the Nobles into a trap, concealed from them that there was any probability of their licenses being refused, but by affidavits which were sent to the Commissioner, shortly after the closing of the Commission, and particularly by the affidavit of Mr. Long, which was afterwards obtained at Collingwood and forwarded to the Commissioner, it has been shewn that even in respect of the conviction for fishing without a license, upon the occasion in question, the unfortunated men were entrapped and deceived into a plea of guilty, in order that a conviction might be registered against them for the

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purposes of the seizure and confiscation of their vessels, and that as is proved by the letter of the Police Magistrate himself, the latter was a party to the fraud, and while representing to them that the conviction had nothing to do with the seizure, and that he regarded the offence as a purely technical one, and that he would so report to the Department in their favour in order that the tugs and boats seized might be immediately returned; instead of so doing sent in a most malicious and libellous report, based upon no evidence whatever, and simply, so far as can be learned, from the verbal statements of the F. O. Mr. Long and the Nobles had come prepared to defend the case, but upon being assured that the offence was regarded as merely technical, and that a nominal fine would be imposed, agreed to a plea of guilty, and went home fully believing that the matter had been satisfactorily arranged and that their vessels would be released in a few days. The Magistrate after promising the Nobles and Mr. Long, who appeared in their interests, that he would report to the Department in their favour as above stated, and after having actually reported against them, was dishonest enough to write Mr. Long, enclosing a copy of the formal record of what took place in court before him, referring to his malicious report sent in by him as having doubtless influenced the Department in favour of the Nobles, as shewn by the fact that the sale of the vessels seized had been postponed.

Before considering the evidence adduced before the Commissioner, in support of the contention of the Nobles that they had been led into a trap by the F.O., and that he had acted maliciously and unfairly towards them, while not enforcing the regulations in question as against others, a word may be said as to the disadvantages under which the Nobles laboured in bringing any evidence at all before the Commissioner.

It has already been pointed out that the notice given to them of the sitting of the Commission was entirely insufficient to enable them to prepare their case or to obtain the attendance of witnesses. By the ruling of the Commissioner, and particularly by his omission to bring the file of the Department relating to the matters which were within the real scope of the Commission, they were entirely taken by surprise, and simply had to get what evidence happened to be immedi-

ately available in relation to the seizure of their vessels. The F. O. was present at the Commissions and not only had he taken no steps whatever to arrange for such evidence as might bring facts to the knowledge of the Commissioner, but he had not brought a single paper, and his letter books, correspondence and other papers in his possession had been left at Sault Ste Marie.

Taken by surprise, in this way the Nobles had no alternative except to call as their witness the F.O., although they well knew that he was bitterly hostile to them, and would endeavour to injure them in every possible way, and they accordingly requested him to give evidence. What followed was most extraordinary: **ELLIOTT REFUSED TO GIVE EVIDENCE.** A Government Officer, holding a judicial position, refused to testify to facts within his knowledge before a Government Commission issued for the investigation of those facts, and publicly shewed his malice against men whose business is entirely at his mercy, and whom he had by all means in his power endeavoured to ruin. Why? Either because he knew facts which would tell in their favor, or because he had grossly slandered them in his reports to the Government. The result shewed that he was probably actuated by both motives.

The Commissioner refused to compel him to testify, although his powers under the Act were expressly pointed out, and he adjourned the Commission until the following day for the express purpose of enabling Elliott to consider his evidence, thereby not only taking away from the Nobles the advantage of being able to examine him before he could consider the effect of his evidence, but causing them considerable additional expense by prolonging the sitting of the Commission.

Even more serious obstacles were placed in the way of the Nobles, in endeavouring to elicit facts from the F.O., by the positive refusal of the Commissioner to allow them to see even those papers which he had brought from the Department for the purpose of the investigation, for it will readily be seen that it was impossible properly to conduct the examination without knowing what Elliott had stated in his letters to the Department. The Commissioner, however, after having at first refused to give any information as to what documents he had, finally agreed that he would read such portions as he might see fit in the pre-

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sence of the witness, before allowing the examination to proceed, and all efforts of Counsel to obtain further concessions were unavailing. Notwithstanding all these disadvantages the F. O. was compelled to admit :

First : That he had favoured the competitors of the Nobles at their expense, and that he had himself broken the regulations in order to do so. The witness Malcolm was on Squaw Island when the seizure was made. On May 8th his sail boat was there fishing in charge of his brother, and no license had even been applied for. Expecting seizure, all moveable articles were taken out of the boat, but Malcolm obtained a private interview with Elliott, and it appearing that he was dealing not with the Nobles but with the rival Company, Elliott stated that he could arrange it all right, that he had a license in his pocket for a man named Bishop, who was not going to use it, and that he would transfer it to Malcolm, which he accordingly undertook to do, by endorsement upon the license, contrary to one of the Fishery Regulations most stringently insisted upon.

When, on the following day, Elliott proceeded to Byng Inlet to seize the remainder of the Nobles' boats, this man Matthew Bishop was there fishing and was not interfered with, because, as the F. O. well knew, his license had been sent and should have been in his possession. Elliott at first attempted to deny the facts, but was finally compelled to admit fully the truth of Malcolm's statement, and to state the real story of the transfer of this license.

It appeared that the rival company had sent in Bishop's application for the license, expecting that he would fish for them, but, having afterwards, quarrelled with him, complained to the F. O. that Bishop had broken faith with them, and was going to fish for the Nobles, whereupon the F. O. undertook to take away his license and give it to a man who was not dealing with the men who were so obnoxious to him.

The result was, two men fished all season on one license, by this assumption of authority on the part of the F. O., which, if permitted by the Department, would defeat the whole effect of the Fishery Regulations, place all power in the hands of the Overseer, and render any action by the Department a mere formality.

It was also proved by Malcolm and Albert Low, that at the time of the seizure, there were many boats of the rival Company, including two steam tugs, without license, to the knowledge of the F. O., who did not interfere with any of them, and Dominick Rosseau proved that the other Company had no license for their boats at the time of the seizure. The F. O. at first contradicted the evidence of the men, but was afterwards compelled to admit the truth of nearly all the statements made by them, or at least to say, that he could not contradict them, and attempted to justify his failure to seize the other tugs by saying that he knew the licenses were on their way, or at Collingwood.

Owing to the fact that the F. O. had not brought any of his books and papers, the Nobles were compelled to call the Manager of the rival Company, in order to prove the date of their application for license, which was May 17th, 1894, and this witness undertook to say that he always received his license before starting out to fish, and had done so for three years past, evidence which was contradicted by every witness called, and by the F. O. himself, who stated that these regulations were only made for 1893, and were not enforced even in that year.

Secondly: The F. O. was compelled to admit that it was true, as stated by the Nobles, that where the regulations had been allowed to fall in abeyance, a year's grace was allowed, at least in one instance, to a man named S. F. Reeves, to dispose of his plant. The regulations only allow one man license for five pound nets, whereas, Reeves had for some time past, been fishing with no less than sixteen pound nets, thereby destroying great quantities of fish. When the regulations were enforced, Reeves nevertheless received his license for sixteen pound nets, upon the understanding that they would not be renewed for another year. It will be remembered that this fact was positively denied by Mr. Hardee in his letter to the "Owen Sound Sun."

Thirdly: The fact that the seizure this Spring was the result of a deliberate and malicious trap by the F. O., for the Nobles, was absolutely proved upon his own admissions.

Owing to the omission by the Commissioner to bring Elliott's letters and reports written during the winter of 1893-94, it was impossible to get at the instructions from the Department to him, over the same

period, in order to ascertain what reference was made in this correspondence to the Nobles' licenses. Elliott, however, admitted, that at some time during the winter, he had made up his mind not to recommend their application for licenses, and he admitted that he knew it was not the custom of the Department to grant any license which was not recommended by the F. O. He stated, that within his knowledge, no instance had ever occurred of the granting of a license by the Department where the application had not been recommended by the F. O.

He was in constant correspondence with the Nobles during the whole of that winter, and, on January 10th, wrote to them that he would not recommend fishermen for license who did not send in a return of their fish for the previous season, BUT HE DID NOT GIVE THEM THE SLIGHTEST HINT THAT HE DID NOT INTEND TO RECOMMEND THEIR LICENSES. On March 14th, their application was sent to him, with a cheque for \$280, the amount of fees for licenses applied for. Although it had never been the custom, in former years, to demand payment of discount on cheques, he undertook to return this cheque, with the paltry excuse that he would not accept it without payment of \$1.05 discount. The application was for a large number of separate licenses, and all that he need have done was to have retained one \$5 license, as against the discount, but there can be no doubt that he deliberately seized upon this excuse to delay their application, in order that he might not be compelled to notify them of the refusal of their licenses, until after they had sent their boats to the fishing grounds.

It is submitted, that if the Nobles could urge no other extenuating circumstances than this contemptible and malicious action, on the part of the F. O., that they would be entitled to a return of the property seized. Even if, which is certainly not the case, it was true, as is sworn to by Elliott, that the boats of the rival Company had their licenses at the time of the seizure, he is nevertheless responsible for the failure to notify the Nobles in time, their application having been sent in three days earlier, as proved by Clark, while the RESULT WAS NOT MADE KNOWN TO THEM, UNTIL NEARLY THREE WEEKS AFTER FISHING HAD BEEN COMMENCED by both companies.

It was proved, beyond question, that it had always been the custom

in former years for vessels to go out early in April, as soon as the ice would permit, without waiting for licenses, which frequently did not arrive for four, five, or six weeks afterwards, and that if they waited for their licenses, they would lose one of the best and most profitable parts of the season.

Elliott stated, that in 1893, a notification had been sent to the effect that boats should not go out without a license, but that it had not been enforced. At some time during March, 1894, a similar notice was circulated, and the Nobles themselves posted a copy on their wharf, and gave evidence THAT IT WAS EXPRESSLY BY REASON OF THIS NOTICE THAT THEY SENT IN THEIR APPLICATION ON THE 14TH OF MARCH, early enough for them to receive their licenses before fishing commenced; but neither this company, nor any other fishermen, supposed it was the intention of the Department to compel them to lose one of the most profitable portions of the season, because there was some delay in answering their applications, and, as before stated, all vessels went out at the opening of navigation, expecting their licenses to arrive in due course.

THE POSTING OF THIS REGULATION IS ABSOLUTELY THE ONLY REASON GIVEN BY ELLIOTT TO JUSTIFY THE SEIZURE IN QUESTION.

The Nobles stated positively, THAT THEY HAD ABSOLUTELY NO REASON TO EXPECT THAT THERE WOULD BE ANY TROUBLE ABOUT THEIR APPLICATION FOR LICENSES, AND ELLIOTT CORROBORATED THIS STATEMENT, so far as his knowledge went.

As has been already stated, Elliott concealed the fact of his refusal to recommend the application of the Nobles, gave them no hint that it was possible that the Department might refuse to issue licenses to them, and deliberately, by a paltry trick, delayed their application, so that an answer could not be received in time, but his conduct in that respect, however, was honourable and straightforward compared with what followed. On the 28th and 29th of April, he met Charles Noble, HE THEN KNEW THAT NO LICENSES WOULD BE ISSUED TO THE NOBLES.

HE DID NOT GIVE THE SLIGHTEST HINT OF THAT FACT, BUT ASKED NOBLE IF HIS BOATS AND VESSELS HAD GONE OUT. The latter answered him frankly and openly, without the slightest hesitation, that they had gone, and thereupon, Elliott immediately telegraphed to the Department that

the Nobles were fishing without a license, and asking instructions, which were absolutely unnecessary, except to protect himself, as he had ample power to seize boats illegally fishing without any special instructions. There can be no dispute upon these points, for they are admitted by Elliott himself.

ELLIOTT, THEN, OBTAINED THE INFORMATION UPON WHICH HIS TELEGRAM WAS BASED FROM NOBLE HIMSELF AT THE SAULT, ALLOWED THE LATTER TO LEAVE WITHOUT THE SLIGHTEST HINT THAT ANY SEIZURE WAS CONTEMPLATED, doubtless because, as is unquestionably the case, a hint to Noble at that time, would have spoiled the whole trap, and would, as Noble himself swore, have resulted in an immediate order by him to their vessels to cease fishing. Elliott merely waited for his instructions to make the seizure, and promptly carried them into effect, thereby causing enormous loss to the Nobles, ridiculously out of proportion to the offence charged, and absolutely with no other justification than the Notice sent around a few months before, which, as above stated, no fisherman on the Georgian Bay expected to be enforced, any more than in former years, if the licenses did not arrive in time.

Not only was the Department, at the time of the seizure, in possession of the sum of \$280, paid by the Nobles for their licenses, which was not returned until long afterwards, but, even now, all the money paid by the Nobles for licenses for boats which have been seized, confiscated and actually sold, has not been returned, for, as was proved before the Commissioner, the sum of \$25 was paid through Overseer Jackson, in respect of some of the boats seized by Elliott, and this money is now in the possession of the Department, unless, as may be the case, it has been embezzled by one of their officers, a fact which can make no difference to the Nobles' rights.

It was also proved, and this fact alone should entitle the Nobles to a return of their vessels and a renewal of their licenses, that at the very time of the seizure the boats were proceeding to lift the nets, in order to cease fishing, as the Nobles had ordered them to do by telegram, immediately upon learning the actual position of the matter.

Disastrous as this action of the F. O. has been to the Nobles, it has borne, perhaps, even more hardly upon the unfortunate fishermen, whose

applications were refused and boats seized, for no other reason than that because their applications were forwarded through the Nobles. Elliott, because they were dealing with the obnoxious firm, involved them in the ruin he was planning for the latter. Evidence in the form of depositions of Robert Boyter, David McCoy, Joseph Bernard, D. McGillivray and Charles Tillson, witnesses who could not be brought in person before the Commissioner, was handed in, proving in the first place that Elliott had publicly stated his intentions of ruining the Nobles, and although he chose to deny this, there is no reason to suppose that these men had any object in swearing to a deliberate falsehood; particularly when it would bring down upon them the malice of the F. O., who had such extensive powers over them.

In the second place, these men say that they have lost their season's fishing, that they have lost their boats, and that they have never been convicted of violating any of the Fishery Laws ; that their ruin has been so complete, that they did not know how they could get through the following winter, and that when they complained to Elliott, he stated that their boats had been seized, because he thought they were working for the Nobles, and he supposed that their boats and rigs belonged to them, although he was, in this, as is shewn, entirely mistaken.

ALL OF THE STATEMENTS IN THESE AFFIDAVITS WERE ADMITTED BY ELLIOTT IN HIS EVIDENCE TO BE ABSOLUTELY TRUE.

The result is, that when challenged, Elliott was not only not able to establish the charges previously made against the Nobles, upon which the Department supposed that the seizure or confiscation would be justified, but admitted that his sole reason for preventing them from getting their licenses was the conviction of 1893, which, was in fact, no conviction at all ; that the whole conviction and seizure in question, was the result of a deliberate trap. It is not too much to say, in view of the evidence, that this trap was dishonestly and fraudulently set for them by the F. O., and that even when it came to the formal charge before the Magistrate, the Nobles were deceived into abandoning their idea of defending it upon all the grounds above indicated; and that by the conduct of the F. O., a man who ought to hold a judicial and impartial position, not only have the Nobles been practically ruined,

but unfortunate fishermen have, through his mistake, been brought to the verge of starvation; and it is submitted, that had the past record of the Nobles been all that it supposed to have been by the Department, it would yet be impossible to uphold the confiscation brought about by such dishonest and fraudulent means. How much more then should justice be done to the Nobles, in view of the fact that Elliott's reports to the Department have now been shewn to be a tissue of slanders and falsehood, which he has not even attempted to justify before the Commissioner appointed to investigate them. As if it were not sufficient for a merely technical offence against the Fishery Regulations, brought about by a fraudulent trap, to inflict a loss of \$25,000 upon a business firm, the decision arrived at before the recent investigation, appears to have been that no license should be issued to the Nobles in future, thereby insuring their total ruin by rendering valueless any property that the F. O. had been unable to seize.

This would be nothing less than persecution, and the only lesson that the fishermen of the North Shore could learn from such a decision would be that at all hazards they must bow to every whim and caprice of the Fishery Overseer; and, perhaps, that the Fishery Regulations must be observed unless the Overseer in his wisdom chooses to disregard them.

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